

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1471-AIR-E **TCEQ ID:** RN103773206 **CASE NO.:** 34659  
**RESPONDENT NAME:** Equistar Chemicals, LP

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Bayport Polyethylene Plant, 5761 Underwood Road, Pasadena, Harris County</p> <p><b>TYPE OF OPERATION:</b> Polyethylene manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one pending enforcement action, Docket No. 2008-0154-AIR-E, regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 31, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Terry Murphy, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-5025; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Gerald Crawford, Regional Environmental Engineer, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas 77507  Mr. Joseph F. Marschhauser, Plant Manager, Equistar Chemicals, LP, 5761 Underwood Road, Pasadena, Texas 77507  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 8, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 22, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>Failure to prevent unauthorized emissions. Specifically, during an emissions event on May 11, 2007, the knock out pot rupture disc for the Polyethylene Unit flare emitted 112 pounds (lbs) of butene, 1,904 lbs of ethylene, 45 lbs of hexane, and 3.9 lbs of unspciated volatile organic compounds, while the permit limit for these compounds is zero. Since this event could have been avoided by better operational practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$7,125</p> <p><b>Total Deferred:</b> \$1,425  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$5,700</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, complete improvements to designs, operations, and/or maintenance practices that address the causes leading to the emissions event that occurred on May 11, 2007, and designed to prevent the reoccurrence of same or similar incidents; and</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): None



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	28-Aug-2007	Screening	13-Sep-2007	EPA Due	2-Jul-2008
	PCW	15-Oct-2007				

## RESPONDENT/FACILITY INFORMATION

Respondent	Equistar Chemicals, LP		
Reg. Ent. Ref. No.	RN103773206		
Facility/Site Region	12-Houston	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	34659	No. of Violations	1	
Docket No.	2007-1471-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Terry Murphy	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,500

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 185% Enhancement Subtotals 2, 3, & 7 \$4,625

Notes The penalty was enhanced by 22 similar NOV's and three findings orders.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$313	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$5,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7 Final Subtotal \$7,125

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$7,125

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$7,125

### DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction Adjustment -\$1,425

Notes

Deferral offered for expedited settlement.

### PAYABLE PENALTY

\$5,700

Screening Date 13-Sep-2007

Docket No. 2007-1471-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 34659

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103773206

Media [Statute] Air

Enf. Coordinator Terry Murphy

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	22	110%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	3	75%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 185%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty was enhanced by 22 similar NOVs and three findings orders.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 185%

Screening Date 13-Sep-2007

Docket No. 2007-1471-AIR-E

PCW

Respondent Equistar Chemicals, LP

Policy Revision 2 (September 2002)

Case ID No. 34659

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN103773206

Media [Statute] Air

Enf. Coordinator Terry Murphy

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to prevent unauthorized emissions, as documented during an investigation conducted on August 8, 2007. Specifically, during an emissions event on May 11, 2007, the knock out pot rupture disc for the Polyethylene Unit flare emitted 112 pounds (lbs) of butene, 1,904 lbs of ethylene, 45 lbs of hexane, and 3.9 lbs of unspecified volatile organic compounds, while the permit limit for these compounds is zero. Since this event could have been avoided by better operational practices, the emissions do not meet the demonstrations in 30 Tex. Admin. Code § 101.222 and are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment were exposed to insignificant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$313

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

## Economic Benefit Worksheet

**Respondent** Equistar Chemicals, LP  
**Case ID No.** 34659  
**Reg. Ent. Reference No.** RN103773206  
**Media** Air  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	11-May-2007	1-Apr-2008	0.9	\$15	\$298	\$313
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for additional training, operational changes, and/or equipment design modifications. The Date Required is the date of the emissions event, and the Final Date is the date the Respondent is expected to have completed all corrective actions.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$313

## Compliance History

Customer/Respondent/Owner-Operator:	CN600124705	Equistar Chemicals, LP	Classification: Average	Rating: 2.92
Regulated Entity:	RN103773206	BAYPORT POLYETHYLENE PLANT	Classification: Average	Site Rating: 10.33
ID Number(s):	AIR NEW SOURCE PERMITS                      PERMIT AIR NEW SOURCE PERMITS                      PERMIT AIR NEW SOURCE PERMITS                      AFS NUM AIR OPERATING PERMITS                      PERMIT			4157A 53406 4820101856 1608
Location:	5761 UNDERWOOD RD, PASADENA, TX, 77507		Rating Year: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	September 12, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 12, 2002 to September 12, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Terry Murphy	Phone:	(512) 239-5025	

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/07/2005                      Admin. Order 2004-1624-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Exceeded VOC permit limit of 9.1 pounds of ethylene by releasing 2,145 pounds on January 5, 2004 during a 1 hour event.

Effective Date: 12/22/2006                      Admin. Order 2006-0713-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.211(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Equistar failed to submit a final record no later than two weeks after the end of the scheduled start-up activity that began on February 3, 2006 and ended on February 6, 2006.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: #4157A, Special Condition #1 PA

Description: Equistar failed to prevent unauthorized emissions during a scheduled start-up activity that began on February 3, 2006.

Effective Date: 02/18/2007                      Admin. Order 2006-0340-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a March 21, 2004 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during an April 15, 2004 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a January 31, 2003 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a February 9, 2003 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a May 29, 2004 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a March 7, 2003 emissions event.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A, Special Condition 7E PERMIT

Description: Equistar failed to equip each open-ended line with a cap, blind flange, plug, or a second valve.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 4157A, Special Condition 1 PERMIT

Description: Equistar failed to prevent unauthorized emissions during a January 7, 2005 emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: NSR Permit 4157A, SC #1 PA

Description: Equistar failed to prevent unauthorized emissions during a October 5, 2005 emissions event.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/08/2003	(16483)	35	12/22/2004	(281233)
			36	12/28/2004	(281585)
2	02/26/2003	(20515)	37	01/25/2005	(337160)
			38	06/03/2005	(392458)
3	03/20/2003	(22467)	39	06/13/2005	(394997)
4	04/13/2003	(24708)	40	09/29/2005	(432478)
5	06/13/2003	(31367)	41	12/06/2005	(375583)
6	09/26/2003	(249736)	42	03/10/2006	(453222)
7	03/30/2004	(250989)	43	03/10/2006	(455793)
8	04/23/2004	(257840)	44	03/10/2006	(455854)
9	06/08/2004	(256764)	45	03/16/2006	(459394)
10	06/10/2004	(255137)	46	03/28/2006	(456805)
11	06/16/2004	(255277)	47	04/07/2006	(461552)
12	06/17/2004	(257305)	48	04/27/2006	(463608)
13	06/18/2004	(256743)	49	04/28/2006	(456202)
14	06/30/2004	(272977)	50	05/15/2006	(462211)
15	08/24/2004	(260704)	51	05/15/2006	(463601)
16	08/24/2004	(260517)	52	05/15/2006	(462219)
17	08/25/2004	(261170)	53	05/22/2006	(462223)
18	08/27/2004	(263292)	54	05/26/2006	(467389)
19	08/29/2004	(270325)	55	08/17/2006	(467196)
20	08/30/2004	(261306)	56	11/13/2006	(518169)
21	08/30/2004	(264168)	57	01/19/2007	(536438)
22	08/31/2004	(272978)	58	01/26/2007	(536555)
23	11/26/2004	(273433)	59	02/14/2007	(539445)
24	11/28/2004	(273355)	60	03/01/2007	(540377)
25	11/28/2004	(273793)	61	03/22/2007	(553759)
26	11/28/2004	(273400)	62	04/25/2007	(557505)
27	12/08/2004	(336068)	63	06/08/2007	(510545)
28	12/08/2004	(336001)	64	07/12/2007	(566871)
29	12/16/2004	(283230)	65	07/31/2007	(566888)
30	12/16/2004	(281310)	66	08/09/2007	(569871)



31	12/20/2004	(337490)	67	08/13/2007	(568490)
32	12/21/2004	(278204)	68	08/22/2007	(571865)
33	12/21/2004	(278092)	69	08/28/2007	(566806)
34	12/21/2004	(278103)			

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/09/2003	(16483)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 101, SubChapter F 101.222(b)(3) 30 TAC Chapter 116, SubChapter B 116.115(c)				
Description:	Failure to control emissions.				
Date:	03/21/2003	(22467)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 101, SubChapter F 101.222(b)(3) 5C THC Chapter 382, SubChapter A 382.085(b)				
Description:	Failure to prevent unauthorized emissions during an emissions event.				
Date:	03/30/2004	(250989)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT 4157A				
Description:	Exceeded VOC permit limit during an emissions event.				
Date:	04/23/2004	(257840)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT TCEQ Air Permit #4157A, SC #1				
Description:	Exceeded VOC permit limit during an emissions event.				
Date:	06/08/2004	(256764)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT 4157A Special Condition 1				
Description:	Exceeded VOC permit limit during an avoidable emissions event.				
Date:	06/10/2004	(255137)			
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT 4157A				
Description:	Failure to notify the commissions of a reportable emissions event in a timely manner, resulting in unauthorized emissions.				
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT TCEQ Air Permit #4157A SC #1				
Description:	Failure to notify the commission of a reportable emissions event in a timely manner, resulting in unauthorized emissions.				
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT TCEQ Air Permit #4157A, SC #1				
Description:	Failure to notify the commission of a reportable emissions event in a timely manner, resulting in unauthorized emissions.				
Date:	06/16/2004	(255277)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 101, SubChapter F 101.211(a) 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT 4157A				
Description:	Failed to notify the Commission of a reportable emissions event, resulting in unauthorized emissions.				
Date:	06/17/2004	(257305)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)				
Rqmt Prov:	PERMIT 4157A				
Description:	Exceeded VOC permit limit during an avoidable emissions event.				
Self Report?	NO		Classification:	Minor	
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)				
Description:	Failure to submit an emissions event notification in a timely manner.				

Date: 06/18/2004 (256743)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit during an avoidable emissions event.

Date: 08/24/2004 (260704)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT TCEQ Air Permit No. 4157A, SC #1

Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)

Description: Failure to submit an initial emissions event notification within 24 hours of discovery.

Date: 08/24/2004 (260517)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)

Description: Failure to submit an electronic final notification emissions event notification.

Date: 08/25/2004 (261170)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit during an avoidable emissions event.

Date: 08/27/2004 (263292)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit during an avoidable emissions event.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(A)

Description: Failure to submit an initial emissions event notification within 24 hours of discovery.

Date: 08/29/2004 (270325)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit.

Date: 08/30/2004 (261306)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Exceeded VOC permit limit.

Date: 12/16/2004 (281310)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A Special Condition 1

Description: Failure to prevent the premature shutdown of the Polyethylene Unit, resulting in unauthorized emissions.

Date: 12/21/2004 (278204)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 4157A: Special Condition 1

Description: Failure to prevent the accumulation of water in the junction box of the High Pressure Let Down Valve, resulting in unauthorized emissions.

Date: 12/21/2004 (278103)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Failure to prevent leaks in the lubricator tubing for the high pressure compressor system, resulting in unauthorized emissions.		
Date:	12/21/2004	(278092)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Failure to prevent cracks in lubricator tubing on high pressure compressor system,		
Date:	12/21/2004	(337490)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC limits.		
Date:	08/23/2007	(568490)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)		
Rqmt Prov:	PERMIT 4157A Special Condition 1		
Description:	Exceeded VOC permit limit during an avoidable emissions event.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)		
Description:	Failure to include estimated total quantity of emissions on initial emissions event notification.		
Date:	08/30/2007	(566806)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter H 115.722(d) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	PA NSR Permit 4157A SC 6A OP O-01608 SC 7A		
Description:	Failure to maintain net heating value to the flare greater than 300 Btu/scf.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter D 115.352(4) 30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01608 SC 7A PA NSR Permit 4157A SC 11E		
Description:	Failure to maintain a seal on open ended lines.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(C) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01608 GC OP FOP O-01608 SC 7A		
Description:	Failure to submit semi-annual Deviation Report in a timely manner.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01608 SC 7A PA NSR Permit 4157A SC 15		
Description:	Failure to maintain Headspace Emissions below the permitted limits.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01608 SC 7A PA NSR Permit 4157A SC 1		
Description:	Failure to maintain emissions less than the MAERT.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THC Chapter 382, SubChapter D 382.085(b)		
Rqmt Prov:	OP FOP O-01608 SC 7A PA NSR Permit 4157A SC 5		
Description:	Failure to maintain Maintenance, Start-up, Shut-down (MSS) records on a monthly basis.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
EQUISTAR CHEMICALS, LP  
RN103773206

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2007-1471-AIR-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Equistar Chemicals, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a polyethylene manufacturing plant at 5761 Underwood Road in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 27, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand One Hundred Twenty-Five Dollars (\$7,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Seven Hundred Dollars (\$5,700) of the



administrative penalty and One Thousand Four Hundred Twenty-Five Dollars (\$1,425) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on August 8, 2007. Specifically, during an emissions event on May 11, 2007, the knock out pot rupture disc for the Polyethylene Unit flare emitted 112 pounds ("lbs") of butene, 1,904 lbs of ethylene, 45 lbs of hexane, and 3.9 lbs of unspciated volatile organic compounds, while the permit limit for these compounds is zero. Since this event could have been avoided by better operational practices, the emissions do not meet the demonstrations in 30 TEX. ADMIN. CODE § 101.222 and are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").





#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Equistar Chemicals, LP, Docket No. 2007-1471-AIR-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, complete improvements to designs, operations, and/or maintenance practices that address the causes leading to the emissions event that occurred on May 11, 2007, and designed to prevent the reoccurrence of same or similar incidents; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.

The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:



Air Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Green  
\_\_\_\_\_  
For the Executive Director

3/4/2008  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph F. Marschhausen  
\_\_\_\_\_  
Signature

DECEMBER 19, 2007  
\_\_\_\_\_  
Date

JOSEPH F. MARSCHAUSEN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Equistar Chemicals, LP

Plant Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

